

Senate Bill 460

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, so as to require condemnors to negotiate in good faith; to require that special masters meet certain qualifications; to permit the consideration of certain expenses and intangible values in ascertaining the proper amount of compensation for property; to provide for the consideration by the condemnor of alternative sites and options; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, is amended by striking Code Section 22-1-7, relating to effect of failure to agree on compensation, and inserting in lieu thereof a new Code Section 22-1-7 to read as follows:

"22-1-7.

(a) The condemnor shall negotiate in good faith with the owner of the property the condemnor seeks to obtain prior to exercising the power of eminent domain to take such property.

(b) The condemnor shall consider alternative sites suggested by the owner of the property prior to exercising the power of eminent domain to take such property. The condemnor shall also consider providing the landowner with other property in full or partial compensation for the property sought to be taken.

(c) If the parties cannot agree upon the compensation to be paid, the same shall be assessed and determined as provided in Article 1 of Chapter 2 of this title."

**SECTION 2.**

1 Said title is further amended by striking Code Section 22-2-62, relating to evidence to be  
2 heard by assessors generally, and inserting in lieu thereof a new Code Section 22-2-62 to read  
3 as follows:

4 "22-2-62.

5 (a) The assessors shall hear all evidence offered by either party as to the value of the  
6 property or of any interest therein to be taken or used, the damages incurred by the owner  
7 of the property or of any interest therein, and the benefits to the owner accruing from the  
8 use of the property or interest by the condemnor.

9 (b) Prospective and consequential damages resulting from the taking may be considered  
10 if such damages are plain and appreciable. Such damages may include the loss in value of  
11 the goodwill of any business located on such property as a result of the taking and a  
12 resulting need to relocate such business; the moving expenses incurred by the property  
13 owner as a result of having to relocate a residence or business as a result of such taking;  
14 and the cost of obtaining a comparable building, property, or dwelling having substantially  
15 the same characteristics of the property sought to be taken.

16 (c) The increase of the value of the property or of any interest therein resulting from the  
17 proposed public improvement may be considered, but in no case shall such estimated  
18 increase deprive the owner of actual damages.

19 (d) In the estimation of the value of the property or other interest taken for public uses,  
20 such valuation need not be restricted to the agricultural or productive qualities of the  
21 property or interest, but inquiry may be made as to all other legitimate purposes to which  
22 the property or interest could be appropriated."

### 23 SECTION 3.

24 Said title is further amended by striking Code Section 22-2-103, relating to the appointment  
25 of a special master generally, and inserting in lieu thereof a new Code Section 22-2-103 to  
26 read as follows:

27 "22-2-103.

28 The special master provided for in this article shall be appointed by the judge or judges of  
29 the superior courts of each judicial circuit and shall discharge the duties provided for in this  
30 article. Nothing contained in this article shall be construed as limiting the number of  
31 special masters for the circuit, and any judge of the superior court may appoint a special  
32 master for any particular case or cases. The special master so appointed must be a  
33 competent attorney at law, be of good standing in his or her profession, ~~and~~ have at least  
34 three years' experience in the practice of law, and shall have expertise in property  
35 valuations appropriate to the type of property that is the subject of the condemnations that

1 come before him or her. His Such special master's relation and accountability to the court  
2 shall be that of an auditor or master in the general practice existing in this state. ~~He~~ The  
3 special master shall hold office at the pleasure of the judge and shall be removable at any  
4 time with or without cause. Each special master shall take and file in the office of the clerk  
5 of the superior court of the county in which the property or interest to be condemned is  
6 situated, along with the order of his or her appointment, an oath or affidavit substantially  
7 in the form prescribed in Code Section 22-2-105."

#### 8 **SECTION 4.**

9 Said title is further amended by adding a new Code Section 22-2-109.1 to read as follows:

10 "22-2-109.1.

11 In addition to other factors allowed by law, in determining or estimating just and adequate  
12 compensation to be paid to the owner of any property or interest condemned, consideration  
13 shall also be given to any loss in value of the goodwill of any business located on such  
14 property as a result of the taking and the resulting need to relocate such business; the  
15 moving expenses incurred by the property owner as a result of having to relocate a  
16 residence or business as a result of such taking; and the cost of obtaining a comparable  
17 building, property, or dwelling having substantially the same characteristics of the property  
18 sought to be taken."

#### 19 **SECTION 5.**

20 Said title is further amended by adding a new Code Section 22-2-137.1 to read as follows:

21 "22-2-137.1.

22 In addition to other factors allowed by law, in determining or estimating just and adequate  
23 compensation to be paid to the owner of any property or interest condemned, consideration  
24 shall also be given to any loss in value of the goodwill of any business located on such  
25 property as a result of the taking and the resulting need to relocate such business; the  
26 moving expenses incurred by the property owner as a result of having to relocate a  
27 residence or business as a result of such taking; and the cost of obtaining a comparable  
28 building, property, or dwelling having substantially the same characteristics of the property  
29 sought to be taken."

#### 30 **SECTION 6.**

31 All laws and parts of laws in conflict with this Act are repealed.